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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,803	12/05/2003	Vikas Agarwal	JP920030194US1	2259

7590 04/01/2009
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EXAMINER

OBEID, FAHD A

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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04/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 and 3-10, drawn to recording process accounting information, recording service request information, correlating the recorded process information and the recorded service request information, and determining resource usage information for each of the service requests for each of the users based upon the correlated recorded process accounting information and the recorded service request information, classified in class 705, subclass 32.
 - II. Claims 11-12 and 14-17, drawn to a monitoring agent to access process accounting information, a usage logging module for maintaining records of the process accounting information, a resource usage database for maintaining records of resource usage information, , classified in class 705, subclass 40.

The Inventions are distinct, each from the other because of the following reasons:

1. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as recording process accounting information, recording service request information, correlating the recorded process information and the recorded service request information, and determining resource usage information for

Art Unit: 3627

each of the service requests for each of the users based upon the correlated recorded process accounting information and the recorded service request information. Subcombination II has separate utility such as monitoring agent to access process accounting information, a usage logging module for maintaining records of the process accounting information, a resource usage database for maintaining records of resource usage information, a correlator operable for correlating the records of the request logging module and the records of the usage logging module in order to allocate overlapping usage of the computer resources between at least two overlapping service requests, the overlapping service requests being from different users, by one of evenly splitting the overlapping usage between the overlapping service requests and splitting the overlapping usage in a weighted manner based upon respective durations of the overlapping service requests. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

2. Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the

Art Unit: 3627

inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

3. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) The inventions have acquired a separate status in the art in view of their different classification;
- (b) The inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) The inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) The prior art applicable to one invention would not likely be applicable to another invention;
- (e) The inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically

Art Unit: 3627

point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FAHD A. OBEID whose telephone number is (571)270-3324. The examiner can normally be reached on Monday to Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fahd A Obeid/
Examiner, Art Unit 3627
03/23/2009

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627